

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:05CV265-MU-01

PAMELA JEAN McCracken,

Petitioner,

v.

VALERIE WASHINGTON,

Respondent.

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O R D E R

THIS MATTER is before the Court upon Respondent's Brief Responding to Statute of Limitation Issue, filed October 24, 2005.

On July 22, 2005, Petitioner filed a federal habeas petition. After conducting an initial review of Petitioner's federal habeas petition, the Court concluded that it appeared that Petitioner's federal habeas petition was untimely and issued a Hill¹ notice ordering Petitioner, within twenty days of the filing of the notice, to set forth why her federal habeas petition should be deemed timely filed.

When no response had been filed within twenty days, the Court dismissed her federal habeas petition as untimely. It then came to the Court's attention that Petitioner had, in fact, filed a timely response to the Court's Hill notice. However, no file number was

¹ Hill v. Braxton, 277 F.3d 701, 706 (4th Cir. 2002).

indicated on the filing and the response was erroneously docketed in a previous case that Petitioner had filed with the Court. Because Petitioner did respond in a timely manner to the Court's Hill notice, the Court vacated its August 25, 2005, Order and ordered Respondent to respond to Petitioner's response to the Court's Hill notice.

Respondent responded and the Court, after construing the Respondent's filing as a Motion for Summary Judgment, issued a Roseboro² Order informing Petitioner that she had 20 days in which to respond to Respondent's response. To date, 28 days later, Petitioner has failed to respond to Respondent's response. For the reasons set forth in Respondent's Brief Responding to Statute of Limitation Issue, Petitioner's federal habeas petition is dismissed.

NOW, THEREFORE, IT IS HEREBY ORDERED that Petitioner's federal habeas petition is **DISMISSED**.

² Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975).

Signed: December 5, 2005

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
Chief United States District Judge

